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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,637	06/07/2002	Hachiro Seno	TAIYO50.001APC	5195
20995	7590	10/19/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			THANH, LOAN H	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,637

Applicant(s)

SENO, HACHIRO

Examiner

LoAn H. Thanh

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

The rejection in view of the arguments filed 07/19/04 have been overcome by applicant's arguments and thus have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4-7,9,15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yarger (U.S. Patent No. 5,360,414).

Yarger discloses catheter having a tip end portion and a projection portion wherein the tip end portion comprises a plurality of side holes (28a-d) and having a groove 32,26 corresponding to the row for draining. Yarger discloses the width of the grooves to be between 0.1 mm to 1.0 mm to prevent significant occlusion of the grooves by debris or living tissue during drainage of a body cavity , viscous or wound. Yarger specifically discloses the through hole rows/ groove 26, 32 to be more narrow than the through holes (28) in order to provide fluid flow and prevent occlusion of grooves. See figures 1-10. See bridging paragraph starting on col. 2-3. col. 2, lines 30-36, col. 4 lines 64-col. 8, lines 57.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 8-9,16,19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarger (USPN 5,360,414) in view of Ruzicka et al. (U.S. Patent No. 4,950,232).

See Yarger figures 1-3, 6-8. Yarger discloses a catheter comprising a single piped tube having a longitudinal groove communicating with a plurality of through-holes for draining. However, Yarger does not disclose a helical groove. Ruzicka et al. discloses a helical groove communicating with a plurality of through-holes for draining. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the longitudinal groove of Yarger with a helical groove as taught by Ruzicka et al. in order to better drain and shelter the aligned holes from being blocked from fluid communication. .

Claims 3,10,13,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarger (U.S. Patent No. 5,360,414) in view of Hideki et al. (JP 08-266616).

Yarger discloses the invention as substantially claimed. However Yarger does not disclose a cuff for securement to the body. Hideki et al. disclose a catheter having

a tip end portion and a projection portion wherein the tip end portion comprises a plurality of side holes and having a groove corresponding to the row for draining in the analogous art. Hideki et al. further disclose cuffs as elements 6-7 for retention of the device. See page 3 col. 4 of the translation and figures 1-2. It would have been obvious to one of ordinary skill in the art to modify the drainage catheter of Yarger with a cuff as taught by Hikedi et al. in order to provide securement and immobilization of the catheter as necessary for an ambulatory patient.

Claims 8,11,14,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarger (U.S. Patent No. 5,360,414) in view of Ruzicka et al. (USPN 4,950,232 in further view of Hideki et al. (JP 08-266616).

Yarger in view of Ruzicka et al. disclose the invention as substantially claimed. However Yarger in view of Ruzicka et al. do not disclose a cuff for securement to the body. Hideki et al. disclose a catheter having a tip end portion and a projection portion wherein the tip end portion comprises a plurality of side holes and having a groove corresponding to the row for draining in the analogous art. Hideki et al. further disclose cuffs as elements 6-7 for retention of the device. See page 3 col. 4 of the translation and figures 1-2. It would have been obvious to one of ordinary skill in the art to modify the drainage catheter of Yarger in view of Ruzicka et al. with a cuff as taught by Hikedi et al. in order to provide securement and immobilization of the catheter as necessary for an ambulatory patient.

Response to Arguments

Applicant's arguments filed 07/19/04 have been fully considered but they are not persuasive. Applicant appears to be arguing more narrow than claimed with respect to Yarger 's groove not intersecting with each and every hole. Further applicant's arguments are directed at intended use. Applicant is directed at figure 6 of Yarger. 28b holes are aligned and in contact with a single groove. Holes 28 and one of 28a are also aligned. Thus, there are a plurality of through holes and each of the groove is narrower than a diameter of the through hole.

The rejection on claim2 and its dependent claims are moot in view of the new art rejection.

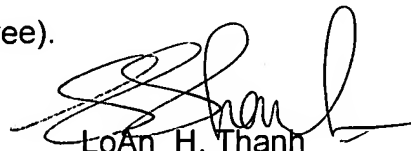
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (703) 305-0038. The examiner can normally be reached on Mon. - Fri. (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (703) 308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LoAn H. Thanh
Primary Examiner
Art Unit 3763

LT